IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 20842 of 2007(F)

OS.406/1997 of PRINCIPAL SUB COURT,ERNAKULAM
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PETITIONER:

SUDHEER, S/O. LATE SUKUMARAN,
MATTAKKAL THUNDIYIL HOUSE, POONITHURA VILLAGE,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.P.JACOB
SRI.N.T.SATHYAVAN

RESPONDENTS:
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1. AMAR TRADING AGENCY,
JEW TOWN, COCHIN-2, REP. BY ITS PARTNER
RAMBAHADUR SINGH, AGED 73 YEARS, BUSINESS,
S/O. BINDAWAN SINGH, RESIDING AT VIII/1549,
A.K.CROSS ROAD, COCHIN-2.

2. MRS. SHAMI NAZAR, AGED 33 YEARS,
W/O. M.A.NAZAR, RESIDING AT XIV/3E,
MANAPURATH HOUSE, CHULLICKAL-5.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J
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W.P.C.NO. 20842 OF 2007
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Dated this the 6th Day of July, 2007.
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J U D G M E N T

This Writ Petition is filed seeking a direction to the Sub Court, Ernakulam to keep further proceedings in abeyance pursuant to Exts.P7 and P8 and pending disposal of the claim petition and stay petitions Exts.P10 and P11. The plaintiff in the suit had obtained a ex-parte decree and had put the decree in execution and sale of the property is to be done and process are being completed to effect the sale. Meanwhile, the present claimant filed an application under Order XXI Rule 58, for adjudication regarding his right and along with the same filed an application under Order XXI Rule 59 to stay further proceedings till the disposal of the claim petition. When a claim petition is filed under Order XXI Rule 58, Rule 59 provides power to the court to postpone the sale pending the adjudication of the claim under consideration. Since claim petition and stay petition filed are pending, the court below shall dispose of Exts. P10 and P11 and till the disposal of the same the sale proceedings is directed to be kept in abeyance.

The Writ Petition is disposed of accordingly.

M.N.KRISHNAN
JUDGE

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